IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Bail Appl..No. 6018 of 2007()

CRIME NO.359/07 OF THAMPANOOR POLICE STATION

: PETITIONER/1ST ACCUSED

AJITH C.N., AGED 32 YEARS,
S/O C.NAGARAJAN, SAI PRASADOM,
TC 16/1197(1), KANNETTUMUKKU,
JAGATHY, THYCAUD P.O.,
TRIVANDRUM.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6018 of 2007

Dated this the 9th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. He along with co-accused faces allegations in a crime registered for offences punishable, inter alia, under Section 452 I.P.C. The crux of the allegations is that the petitioner is the son of the landlord of the building. There was a dispute between the landlord and the tenant about the alleged unauthorised induction of a sub lessee by the tenant into the premises. The petitioner along with some others is alleged to have gone to the shop and indulged in wanton acts of mischief and violence. After making prior preparations, the accused persons had allegedly gone to the tenanted premises to vex, intimidate and attack the tenant, it is alleged. The crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The boot is on the other leg. The petitioner was not the aggressor but he was the victim of aggression. He had gone to the tenanted premises and the petitioner was attacked by the tenant. Apprehending that the petitioner may raise allegations

against the tenant, false and vexatious allegations have been raised against the petitioner and others. The petitioner may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are absolutely no circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. The learned Public Prosecutor has read to this Court the scene mahazar from the case diary which reveals telltale indications of the acts of violence and mischief inside the premises.

4. I have considered all the relevant inputs. I shall not embark on a detailed discussion on the acceptability of the allegations or the credibility of the data collected. Suffice it to say that there is merit in the opposition by the learned Public Prosecutor and that this is an eminently fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate and then seek regular bail in the ordinary course. I find no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the

Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-